United Nations A/HRC/RES/36/2

General Assembly

Distr.: General
4 October 2017
English
Original: French

Human Rights Council
Thirty-sixth session
11-29 September 2017
Agenda item 2

Resolution adopted by the Human Rights Council on 28 September 2017

36/2. Mission by the Office of the United Nations High Commissioner for Human Rights to improve the human rights situation and accountability in Burundi

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Recalling also General Assembly resolution 60/251 of 15 March 2006 and Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007,

Recalling further its resolutions 30/27 of 2 October 2015, S-24/1 of 17 December 2015 and 33/24 of 30 September 2016,

Reaffirming that States have the primary responsibility for the promotion and protection of all human rights and fundamental freedoms,

Stressing the primary responsibility of the Government of Burundi for ensuring security in its territory and protecting its population, conducting inquiries into human rights violations and bringing those responsible for such violations to justice, with respect for the rule of law, human rights and international humanitarian law, as applicable,

Reaffirming its strong commitment to the sovereignty, political independence, territorial integrity and unity of Burundi,

Reaffirming also the Arusha Peace and Reconciliation Agreement for Burundi, which has been the basis for the Constitution of Burundi and provides the foundation for peacebuilding, national reconciliation and the strengthening of democracy and the rule of law,

Bearing in mind that the international community, including the Human Rights Council, can play an important role in preventing human rights violations and abuses and mitigating the risk of escalation of conflicts,

Mindful of the importance of the prevention of human rights violations and abuses in Burundi, especially in the context of past mass atrocities in the region,

Welcoming the launch of the inter-Burundian dialogue process and the progress achieved, in a genuine and open manner, based on respect for the Constitution and the Arusha Agreement, and also welcoming the political dialogue for Burundi under the

auspices of the Facilitator of the East African Community, the former President of the United Republic of Tanzania, Benjamin William Mkapa, and with the mediation of the President of Uganda, Yoweri Museveni, and the report of the Facilitator adopted on 20 May 2017 in Dar es Salaam at the Summit of Heads of State of the East African Community,

Noting with appreciation the efforts made by the international community to find a peaceful solution to the crisis facing Burundi, including those of the United Nations, the African Union and the East African Community, and the improvement of the political and security situation in Burundi,

Noting with interest the efforts of the Government of Burundi to combat impunity and strengthen the rule of law, including the adoption of the law on combating gender-based violence and the law on the protection of victims and witnesses, the establishment of the National Observatory for the Prevention and Eradication of the Crime of Genocide, War Crimes and Crimes against Humanity and the National Council for National Unity and Reconciliation, and the reform of the security and justice sector in accordance with the Arusha Agreement,

Commending the assistance for the return of refugees provided by host countries and the Office of the United Nations High Commissioner for Refugees,

Taking note of the report of the Secretary-General on Burundi of 23 February 2017,[1]

Deploring the suspension of cooperation between the Government of Burundi and the United Nations High Commissioner for Human Rights, and calling upon the Government to accelerate the ongoing process of dialogue with a view to resuming such cooperation in an environment of mutual trust,

Taking note of the work of the Commission of Inquiry on Burundi and its report,[2] and expressing its concern about the lack of cooperation between the Government of Burundi and the Commission, including the denial of entry into the territory,

Reaffirming the commitment of the States members of the Human Rights Council to cooperate with international human rights mechanisms,

1. *Expresses its concern* over the continuing challenges regarding the situation of human rights in Burundi, including economic, social and cultural rights;

2. *Strongly condemns* all human rights violations and abuses committed in Burundi, whoever the perpetrators may be;

3. *Takes note* of the allegations that a significant number of violations and abuses were committed by the Burundian security forces, including the national intelligence service and the Imbonerakure, and calls upon the Government of Burundi to continue and intensify its efforts to combat impunity by conducting thorough, independent and impartial investigations of alleged perpetrators of such violations and abuses;

4. *Expresses concern* over the deregistration and suspension of a number of civil society organizations in Burundi and the working conditions of Burundian human rights defenders, some of whom are in exile;

5. *Urges* the Government of Burundi to put an immediate end to human rights violations and abuses, including arbitrary detention and restrictions on the work of human rights defenders and the media, and calls upon them to work in accordance with the law;

6. *Strongly condemns* all public statements and slogans coming from inside or outside the country that incite violence or hatred towards different groups in Burundian society;

7. *Welcomes* the public condemnation of such slogans by officers of the Conseil national pour la défense de la démocratie — Forces pour la défense de la démocratie, and calls upon the Government of Burundi and other parties to refrain from any statements or

[1] S/2017/165.
[2] A/HRC/36/54.

actions that could exacerbate tensions and incite violence, including gender-based violence, to publicly condemn such statements and actions and ensure that all those responsible are held accountable in order to take into account the best interests of the country and to respect fully the letter and spirit of the Constitution of Burundi and the Arusha Agreement, a backbone for peace and democracy;

8. *Calls upon* the Government of Burundi to safeguard and protect the population, with full respect for international law, to respect, protect and guarantee all human rights and fundamental freedoms for all, in accordance with the State's international obligations, to adhere to the rule of law and to establish transparent accountability for acts of violence;

9. *Calls anew upon* the Burundian authorities to conduct thorough and independent investigations of crimes involving serious violations and abuses of human rights so that all perpetrators, regardless of their affiliation, are held accountable before the law;

10. *Notes with satisfaction* the decision of the Government of Burundi to restore its full cooperation with the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights, including by extending full cooperation to its office in Bujumbura, and encourages the Government to cooperate fully with treaty bodies and to improve the working conditions of human rights defenders;

11. *Encourages* the Government of Burundi to cooperate with the regionally led mediation allowing for genuine and open inter-Burundian dialogue, to be convened without delay, involving all unarmed stakeholders, both inside and outside the country, who are convinced of the need for peaceful solutions and are prepared to work to that end, ensuring the meaningful participation of women, in order to reach a consensual and nationally owned solution that would aim to preserve peace, strengthen democracy, ensure the enjoyment of human rights for all in Burundi and restore the prospects and capacity of Burundi for development;

12. *Calls upon* the Burundian authorities to ensure equitable political processes and to create an open and safe space that could lead to the holding of free, fair, inclusive and transparent democratic elections in accordance with the Arusha Agreement and the Constitution of Burundi;

13. *Welcomes and supports* the ongoing efforts made at the regional and subregional levels, including by the East African Community and the Peace and Security Commission of the African Union, to monitor the situation of human rights in Burundi and to contribute to its improvement;

14. *Welcomes* the work of human rights observers in Burundi appointed by the African Union, urges the Government of Burundi to sign without delay the memorandum of understanding with the African Union in order to enable human rights observers and military experts appointed by the African Union to operate fully in the country in fulfilment of the responsibilities provided for under their mandate, and calls upon the international community to give this mandate its full logistical and financial support;

15. *Emphasizes* the existence in Burundi of national, regional and international human rights monitoring mechanisms, including the Independent National Commission on Human Rights, the Ombudsman, the African Union human rights observers and the Office of the United Nations High Commissioner for Human Rights, and affirms the need to strengthen these mechanisms to enable Burundi to improve the situation of human rights and end human rights violations and abuses;

16. *Requests* the Office of the High Commissioner urgently to dispatch a team of three experts with the following mandate:

(*a*) To engage with the Burundian authorities and all other stakeholders, in particular United Nations agencies and the African Union, to collect and preserve information, to determine the facts and circumstances in accordance with international standards and practice, in cooperation with the Government of Burundi, and to forward to the judicial authorities of Burundi such information in order to establish the truth and

ensure that the perpetrators of deplorable crimes are all accountable to the judicial authorities of Burundi;

(*b*) To make recommendations for technical assistance and capacity-building and ways of improving the situation of human rights in the country with a view to providing support to the country in fulfilling its human rights obligations, ensuring accountability and combating impunity;

17. *Requests* the United Nations High Commissioner for Human Rights to present to the Human Rights Council at its thirty-seventh and thirty-eighth sessions an oral briefing and at its thirty-ninth session a final report during an interactive dialogue;

18. *Urges* the Government of Burundi to cooperate fully with the team of experts of the Office of the High Commissioner, to authorize the team to conduct visits to the country and to provide it with all the information necessary to fulfil its mandate;

19. *Decides* to remain seized of the matter.

39th meeting
28 September 2017

[Adopted by a recorded vote of 23 to 14, with 9 abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Iraq, Kenya, Nigeria, Saudi Arabia, South Africa, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Albania, Belgium, Croatia, Georgia, Germany, Hungary, Latvia, Netherlands, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining:

Botswana, Indonesia, Japan, Kyrgyzstan, Mongolia, Panama, Paraguay, Philippines, Qatar]